

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|--------------------|---|----------------------------|
| James E. Johnston, | : | |
| Plaintiff | : | Civil Action 2:08-cv-00736 |
| v. | : | Judge Frost |
| Sidney Lewis, | : | Magistrate Judge Abel |
| Defendant | : | |

ORDER

Plaintiff brought this action in the Franklin County Common Pleas Court for a civil protection order. After that court issued a civil protection order, defendant Lewis removed the action to this court. This matter is before the Court on defendant Lewis's August 18, 2008 objections Magistrate Judge Abel's August 6, 2008 Report and Recommendation that this case be remanded to the Common Pleas Court (doc. 3) .

Upon *de novo* review in accordance with the provisions of 28 U.S.C. §636(b)(1)(B), the Court **ADOPTS** the Report and Recommendation. Lewis argues that his pleading that there was a bankruptcy investigation fraud creates federal subject matter jurisdiction. That argument is meritless. The underlying action has nothing to do with bankruptcy or bankruptcy jurisdiction. To the extent that Lewis may claim a defense to the action for a civil protection order based on bankruptcy law, that defense should be raised in the Common Pleas Court. It is not a basis for removal. *See Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. 261, 275-76 (1997); *California v. Grace Brethren Church*, 457 U.S. 393, 417 at n.37 (1982); *Hathorn v. Lovorn*, 457 U.S. 255, 269 (1982); *Kish v. Michigan*

State Bd. of Law Examiners, 999 F.Supp. 958, 963-64 (E.D. Mich. 1998).

Accordingly, defendant Lewis's objections to the Report and Recommendation (doc. 3) are **OVERRULED** and this case is hereby **REMANDED** to the Franklin County Common Pleas Court.

/s/ Gregory L. Frost
Gregory L. Frost
United States District Judge